

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

SALVATORE CANDELA,

Defendant

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

: 95-CR-438

: U.S. Courthouse
: Brooklyn, New York

TRANSCRIPT OF SENTENCE

June 24, 1999

BEFORE:

HONORABLE RAYMOND U. DEARIE, U.S.D.J.

APPEARANCES:

For the Government:

ZACHARY W. CARTER
United States Attorney
One Pierrepont Plaza
Brooklyn, New York 11201
BY: ELIZABETH LESSER
JOANNE NAVICKAS
Assistant U.S. Attorneys

For the Defendant:

GAIL LASER, ESQ.

Sicilian Interpreter:

Anna Marie Marra

Court Reporter:

Marsha Diamond, CSR
Official Court Reporter
United States District Court
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MARSHA DIAMOND CSR

OFFICIAL COURT REPORTER

#219

1
2 Proceedings recorded by mechanical stenography.
3 Transcript produced by Computer-Assisted Transcription.

4 THE CLERK: United States versus Salvatore Candela.

5 MS. LESSER: Elizabeth Lesser for the government.

6 MS. NAVICKAS: And Joanne Navickas.

7 MS. LASER: On behalf of the defendant, Gail Laser for
8 the defendant Salvatore Candela.

9 A N N M A R I E M A R R A, Official Sicilian
10 Interpreter, having been duly sworn, interpreted the testimony
11 as follows:

12 THE COURT: Good morning, everyone.

13 MS. LESSER: Good morning Your Honor.

14 THE COURT: Ms. Laser.

15 MS. LASER: Good morning, Your Honor.

16 THE COURT: Mr. Candela, have you had an adequate
17 opportunity to review carefully with counsel, as necessary
18 with the benefit of an interpreter, the presentence report and
19 the related documents in the case?

20 THE DEFENDANT: Yes.

21 THE COURT: And do you feel prepared to proceed to
22 sentence this morning?

23 THE DEFENDANT: Yes.

24 THE COURT: You will be given an opportunity, as is
25 your right, to address the Court prior to the imposition of

1 sentence. You should bring up anything you think I should be
2 aware of before I finalize my sentencing judgment. All right,
3 sir?

4 THE DEFENDANT: Yes.

5 THE COURT: I am sorry?

6 THE DEFENDANT: Yes, yes.

7 THE COURT: Let me recite, generally speaking for the
8 record, what I have as far as the sentencing is concerned. In
9 the course of the presentence report I count three addendum or
10 addendee to the report, the most recent of which is dated
11 April 2, 1999. I have various submissions from the counsel,
12 responses, attached to Ms. Laser's letter of May 4th or a
13 series of letters from people, friends, the defendant himself,
14 defendant's wife, other friends and family and acquaintances
15 new and old, and the government's memorandum and
16 correspondence in opposition to a variety of different
17 things. As a general matter, that sums up what it is that I
18 have.

19 MS. LASER: Can I interrupt, Your Honor?

20 THE COURT: Yes, ma'am.

21 MS. LASER: The defendant sent -- my office sent a
22 sentencing memorandum.

23 THE COURT: Yes, I have a sentencing memorandum.

24 MS. LASER: A 20-page sentencing memorandum.

25 THE COURT: March 29th. By cover letter of March

1 29th.

2 MS. LASER: Yes, it could be 20-page memorandum of
3 law.

4 THE COURT: Looks like the same document.

5 MS. LASER: I didn't notice.

6 THE COURT: Let me check the number of pages.

7 MS. LASER: Yes.

8 THE COURT: Yes, I have that.

9 MS. LASER: Very good.

10 THE COURT: The government's memorandum
11 correspondence in opposition, correspondence supplementing,
12 including your letter of March 26th, 1999 to the Court
13 relating to paragraph 165 of the presentence report.

14 MS. LESSER: Do you also have the government's
15 response, which we filed yesterday morning to Mr. Candela's
16 previous, which was filed the preceding date? Our letter is
17 the 23rd, we received his sentencing memorandum the 22nd, this
18 is a supplemental sentencing memorandum in support of a motion
19 for a new trial.

20 MS. LASER: It is not with regard to sentencing
21 specifically. That is why I didn't raise it at this point you
22 think you are going on to the post trial motions?

23 THE COURT: I have your letter of the 23rd. I have
24 your letter of June 23rd. I have Mr. Candela's pro se
25 supplemental memorandum augmenting his motion for a new trial

1 based on ineffective assistance of counsel.

2 MS. LESSER: That is it, Your Honor.

3 MS. NAVICKAS: Thank you.

4 THE COURT: That brings me to the next subject.

5 There are a number of motions before the Court, motions for a
6 new trial under Rule 33, motions directed under Rule 29(c),
7 most of which I might say as a preliminary matter are probably
8 not timely but worth discussing, particularly in a case when
9 the evidence disproving claims could hardly be stronger, and
10 perhaps even relevant to the defendant's application for a
11 downward departure on the grounds of post conviction
12 rehabilitation.

13 I will give you a chance to supplement your papers
14 briefly in just a moment but I just want to make sure,
15 Mr. Candela, because you were convicted by jury verdict after
16 trial, you will have an absolute right to appeal your
17 conviction and sentenced to a higher court, assuming of course
18 your continuing eligibility of appointment of counsel under
19 the Criminal Justice Act. Those fees and expenses would be
20 paid by the court under the authority and provisions under the
21 Criminal Justice Act.

22 We have a motion to dismiss filed originally by
23 predecessor counsel on the grounds of outrageous government
24 conduct. Mr. Levine, who was an interim attorney I believe,
25 adopted that motion. I don't know, Ms. Laser, whether you

1 have or have not. It really doesn't matter.

2 MS. LASER: I do, Your Honor.

3 THE COURT: Let me ask you to refresh my
4 recollection, who was the first attorney of record in the
5 case?

6 MS. LESSER: Mr. Batchelder was actually trial
7 counsel. It wasn't John Annuzio.

8 THE COURT: I know Mr. Batchelder was not the
9 original attorney of record. All right. It doesn't matter.
10 Mr. Batchelder came in and then Mr. Levine for a brief period
11 of time, and then I think Ms. Laser you followed thereafter.

12 MS. LASER: I did.

13 THE COURT: Does anybody wish to be heard on any of
14 the motions beyond what is already before me? There being no
15 response I will just -- briefly, the motion based upon a claim
16 of outrageous government conduct is denied and denied without
17 hearing. I see absolutely no basis for the motion. The motion
18 seems to forget that Mr. Detre was involved in a highly
19 sensitive, highly dangerous undercover operation for some 25
20 months, if I am not mistaken, during which he was called upon
21 and very effectively did play the role that he had previously
22 had before his decision to cooperate with the authorities,
23 seizing upon snippets of the conversations and there are many,
24 -- 800 some-odd conversations -- that there is an attempt
25 here to portray government through hand and mouth of Mr. Detre

1 as fermenting violence, condoning of violence, turning sort of
2 and ignoring violent criminal activity. There is just nothing
3 here to support that. Indeed, the record -- I think both the
4 trial record and based upon submissions thereafter, clearly in
5 my view satisfies me but there is nothing whatsoever here that
6 would give the Court cause for concern concerning the
7 propriety of the investigation.

8 Yes, Mr. Detre had to in the hard ball world of
9 distrust and suspicion, which was the milieu in which these
10 people operated, obviously had to sound credible, and to
11 remain viable, as I think was stated in the papers, and
12 maintain his own credibility and in this -- I don't think it
13 is an overstatement to say -- den of thieves was play acting.
14 He did it very effectively, and he was adopting the role the
15 defendant's believed was his and indeed, was his at one time.
16 He was one of them. So he had to deploy the same tough talk,
17 the same macho -- speak the lingo of the crowd street of
18 violence, and nothing along those lines should surprise
19 anybody.

20 Beyond that, and more importantly, there were efforts
21 here, it seemed to me, through Mr. Detre to deal with some
22 very delicate situations that did evolve during the course of
23 these covert cooperation. Criminal activities were being
24 planned, some of which of necessity contemplated the possible
25 use and use of violence. They are to a large extent outlined

1 in the material and I am not going to recite them but they
2 were supported in the trial record. One of the great
3 difficulties I have here, presumably unintelligible, intended
4 and in the way you and I share this, although not quite as
5 directly, so much time has passed since this trial, which was
6 a memorable trial, not one of your everyday trials, that it
7 really required me to get back into the thicket of the
8 testimony and to recall some of what was going on during
9 Mr. Detre's -- during the 25 months of Mr. Detre's taping. I
10 have thought it was handled frankly rather deftly, some very
11 difficult situations -- very. One might argue on the basis of
12 an isolated reference here or there, that Mr. Detre was in
13 effect encouraging violent activity, but it was clearly being
14 done to maintain his own credibility and standing within this
15 group, and when push came to shove and specific crimes were
16 being contemplated, the government took what I consider to be
17 responsible steps in attempts for Mr. Detre to undermine
18 criminal -- violent criminal activity. For example, Detre
19 himself agreed on occasion to be the trigger man, if I recall
20 correctly. From time to time, undercover agents were used as
21 an effort to provide certain considerations to the group, as a
22 way of hopefully dissuading them from continuing ongoing
23 criminal activity, and a number of things were being done.
24 And indeed, Detre himself was overheard on one tape, if I am
25 not mistaken, essentially trying to talk somebody out of and I

1 can't recall who it was, out of a particular contemplated
2 criminal act. So I don't think you can deploy undercover
3 operatives in an investigation of this sort, given the nature
4 of the targets and their activities, without making him
5 credible and without dealing with the prospects that these
6 undercover operatives made themselves from time to time what I
7 will call compromising positions. I thought Mr. Detre was and
8 I thought the government acted far from outrageous. I thought
9 the government, and the evidence shows the government acted
10 responsibly so I see nothing to the motion. Most of these
11 take place -- you could almost -- they are all the same in a
12 way. Literally, a bunch of money hungry sort of scheming low
13 lives and ultimately so focussed in life on what is the next
14 fix or what is the next score, and they drew no line at
15 violence. It was part of their everyday vernacular. Much of
16 it -- probably the reality of it was at that time that this
17 case involved plenty of violence. So with those comments,
18 realizing in large measure in a more detailed analysis that
19 appears in papers, I cannot credit the claim and deny the
20 motion.

21 The other motion really deals with the sufficiency of
22 the evidence on the issues that were dealt with earlier at
23 trial regarding the defense of coercion, the defense of
24 entrapment, both of which the jury was instructed about and
25 having heard the defendant's testimony as well as all the

1 other proof decided not unwisely in my personal view to
2 reject. These issues relate also to the claim that
3 Mr. Batchelder did not provide effective assistance within the
4 Strickland standard to Mr. Candella. I must say, so that you
5 know what I am thinking, when I read Mr. Candella's lengthy
6 letter and the correspondence Monsignor, Sister and fellow
7 inmate about the changes that they have observed in him over
8 these past few years since his original -- since the trial, it
9 was hard to divorce one from the other. Analytically, of
10 course, you can. Analytically, the level of diligence that
11 Mr. Batchelder brought to the defense of Mr. Candella, while
12 it relates to only one of his claims, the level of diligence
13 in and of itself doesn't speak directly to the constitutional
14 standard. One can be extraordinarily diligent and
15 extraordinarily skillful, as he was in this case, and still as
16 a human being make a mistake that arguably could have affected
17 the fact, the outcome within the Strickland sense. That
18 didn't happen here either but it is hard to reconcile, if you
19 know what I mean, Ms. Laser, it is hard to reconcile. I am
20 not asking you to agree with me but it is hard to reconcile
21 this manifesto of a changed man with this flagrant and in my
22 view utterly irresponsible attack on a man who worked so hard
23 in his defense. Again, on the businesses of snippets here and
24 in large measure because I credit Mr. Batchelder's affidavit,
25 bald faced lies about what was and was not done in his

1 defense.

2 MS. LASER: Would you like me to respond?

3 THE COURT: It was a very disturbing document.

4 I will share with you because we are going get to the
5 question of downward departure. I don't think it is fair of
6 me to have that thought without putting it out on the record.
7 You can respond now or you can respond whenever you like but I
8 want you to know what I am thinking.

9 MS. LASER: Well, then let me respond, since I think
10 my client would prefer it.

11 THE COURT: I am sure.

12 MS. LASER: I mean, Your Honor, I think what was meant
13 in the motion that Mr. Candella made was not meant to be a
14 personal vendetta or attack on his attorney but simply a
15 presentation of what he was feeling from his view. I read the
16 transcript of a hearing that occurred five weeks before the
17 trial and even began where Mr. Candella had written a letter
18 to Your Honor and had not been visited by his attorney --
19 Mr. Batchelder was going through some very difficult personal
20 concerns I know during that period.

21 THE COURT: Only for a very brief --

22 MS. LASER: Let me just finish. I mean the
23 expectations of Mr. Candella and Mr. Batchelder I think were
24 just different and I want you to recognize that sometimes a
25 client sees a particular strategy as the best one and that is

1 at odds with what the lawyer feels and the lawyer is more
2 experienced and the lawyer ultimately makes the decision but
3 that doesn't mean --

4 THE COURT: Not in this case.

5 MS. LASER: That doesn't mean that the client is wrong
6 or that he even feels badly towards his attorney. I think
7 what he was trying to do in his motions is say to you,
8 Your Honor, I am certain of these accounts, I was not guilty,
9 regardless of what the evidence was and regardless of the
10 conversations or anything. Where I was during certain
11 incidents do not constitute my being found guilty of them.
12 For whatever reason, he truly believes that. That does not
13 change the fact that he has in a very real sense done a
14 remarkable job in prison as a preacher. I mean Sister Mary, I
15 have spoken to her on the phone, she is incredibly moved by
16 what he was able to do with his fellow inmates. They are just
17 different things he feels about how his defense should be
18 handled. They continue to this day. Mr. Candella is not one
19 of the easiest clients, as you know, and as I have learned.
20 He has strong views about what should be done and that does
21 not change my understanding and belief that says what Sister
22 Mary has said. Sister Mary works with hundreds of inmates.
23 She offered to come to court today. She happens to be out of
24 town this week. She has never offered to do that. She is
25 truly moved by what Mr. Candella has done in prison and I

1 think, regardless of what shortcomings Mr. Candella may have
2 seen in Mr. Batchelder's performance, perhaps not as a
3 professional but as he personally felt certain things should
4 have been done or perhaps when he saw the ship sinking how in
5 his desperation felt do this, do this, anything to try and
6 change that momentum. Sister Mary's words are very, very
7 moving to me, very convincing and only bolstered by those of
8 Mr. Rarmiro and I ask you and I don't want to repeat myself at
9 the latter part of my hearing before you, that you divorce
10 those two things because they were completely different. What
11 he does with those inmates has nothing to do with his own
12 feelings of how his defense should have been handled.

13 THE COURT: I quite agree but I feel strongly that if
14 there is a thought playing on my mind that impacts upon an
15 important aspect of the sentence, it is incumbent upon me to
16 share it with counsel. You can certainly understand on the
17 surface of it --

18 MS. LASER: I do.

19 THE COURT: Why the two appear to be at odds. I
20 fully agree. It is easy for me as the presiding judge to say
21 as counsel the defendants who took an active role in their
22 defense, as Mr. Candella certainly did, is something that I
23 welcome, and frankly, it makes my job a little easier, I
24 think, because then we don't have misunderstandings down the
25 road. Mr. Candella decided he wanted to testify in this case,

1 contrary to Mr. Batchelder's advice. That was his right. He
2 did so. Whether that affected the jury's verdict or not we
3 can only speculate but included in this attack, and I say that
4 in the legal sense, on Mr. Batchelder are some claims about
5 certain evidence that a man of this man's intelligence knows
6 better. It is not just maybe. I don't know if that is true.
7 Exhibit G, for example, I am referring now to page ten of
8 Mr. Batchelder's affidavit. This was the workingman tape.
9 Exhibit B, if it shows he is a workingman, if it shows he
10 spends his time working by setting up different robbery
11 schools, that is Mr. Candella writes to me. I have heard him
12 testify. He has addressed the Court in public. This is hard
13 for me to understand and maybe I am just asking too much of
14 him -- not as a lawyer but how one could with a straight face
15 claim that Exhibit G is somehow consistent with the defense,
16 that he is, after all, a hard workingman, not a career
17 criminal. That is just one of any number of examples. No, I
18 don't fault him for being active in his defense.

19 More importantly, I don't fault him being critical of
20 his defense attorney. It is inevitable if somebody is
21 thinking about it there is going to be different and
22 significant differences but it is the nature of the attack. I
23 was never appointed an investigator. Now, I don't trust my
24 recollection on any of this, but I recall discussions in court
25 concerning the investigator that I appointed at the request of

1 Mr. Batchelder. Now, it might be that your client feels the
2 investigator is deficient. He has argued that Mr. Batchelder
3 failed to have an investigator appointed. That is not true.

4 All right. That having been said, I am all ears on
5 this experience that he has had since this time because I read
6 these letters.

7 MS. LASER: I actually don't have a whole lot more to
8 add. I think those letters were more eloquent than I could be
9 about what role he has taken on since he has been in prison.
10 Sister Mary has explained to me that he has literally brought
11 in inmates who are agitated and on the verge of violence
12 because of the stress and anxiety of their situations and have
13 been soothed, is the best word, where Mr. Candella has
14 recognized their anguish and has approached them and brought
15 them into his prayer groups. His prayer groups started at
16 five, six people and they grew in both facilities to over 30
17 men, are moved by him and have literally changed their outlook
18 because of what he's done. This is, you know, this continues
19 of course to this day but I mean his ability to lead in this
20 respect and his choice to lead in this way as opposed to -- in
21 prison, of course, there are all ways to lead. I understand
22 his choice to lead these men into their religion and
23 spirituality and reconciling themselves in their situation and
24 move forward their lives in the most positive way, given the
25 negative situation they find themselves in, I think, is

1 remarkable and that Sister Mary, she is the witness.

2 My arguments here are simply parroting her. She is
3 astounded by what he has done and I think her letter conveys
4 that and what is so remarkable here then for me to get a
5 letter from, as I did, from Mr. Romano -- I think that is his
6 name Romero -- excuse me, I am sorry -- which supports
7 everything she said in great detail as to how Mr. Candella
8 personally changed his life in such a positive way, that
9 simply supports Sister Mary, and corroborates everything that
10 she had written. That letter from Mr. Romero was a surprise
11 to me. I didn't expect an inmate to take that -- he hasn't
12 been sentenced yet and he is taking a risk, he might think, in
13 writing a supportive letter for another inmate but I think his
14 letter, which is also very articulate in what Mr. Candella
15 did, Mr. Candella approached him and saw his difficulty and
16 approached him and brought him along, and ultimately, got him
17 to take the steps ending in confession and then weekly and
18 daily prayer sessions that changed him. This is continuing.
19 I assume it will continue over the decades that Mr. Candella
20 will find himself in jail and I think that should be something
21 that the Court can consider and should consider.

22 The law on post offense rehabilitation from the 2d.
23 Circuit just in the last three years is very, very generous.
24 Also, you know, dealing with the addiction, which is
25 impressive, but the point is that the 2d. Circuit encourages

1 this kind of downward departure. I think that should
2 encourage this Court to consider it for
3 Mr. Candella. We are not asking for a sentence which will
4 sharply change. Mr. Candella is in his late 30s. He is
5 facing an extraordinarily long mandatory sentence. We are
6 talking about a downward departure, which may let him see the
7 light of day at the very end of his life. We are asking
8 essentially here for a window and I think that what he has
9 done and what he will continue to do based on what Sister Mary
10 says about him indicates that at the end of his life it will
11 be safe to let him out. Our society will have punished him
12 enough. We will certainly send a message of deterrence to all
13 of his cohorts or those that his sentence will touch, so all
14 of those messages that this Court has to deal with sending
15 will have been sent, but to give this man who is now giving so
16 many fellow inmates hope through spirituality, I think, it
17 might be appropriate and I am urging the Court to give him the
18 hope of this window of freedom at the end of his life might be
19 the right thing to do.

20 THE COURT: I hope it is true. If it is he has found
21 a calling. If it is one might argue, and I say this somewhat
22 facetiously, he is right where he belongs because he has a
23 whole field of possible converts and never ending supply,
24 unfortunately, of people confined to these places, extended,
25 in my view, prolong the -- unnecessarily prolonged periods of

1 time. I am not speaking necessarily about Mr. Candella.

2 The other thought I had when I was reading all of
3 this material is why in Heaven's name did they take away the
4 parole system. What doubts I might have about the bona fides
5 of this and I certainly don't have it about the good faith of
6 the people who have written to me but whether it is an attempt
7 to manipulate the system, which one would have to contemplate
8 over time would be resolved, because if this is genuine it is
9 really something good happening, then let it persist.

10 MS. LASER: Can I speak to the manipulation question
11 and should have spoken to it earlier? I think an inmate or
12 defendant or client who is seeking to manipulate over a
13 several year period, I think it to not have frankly the
14 success rate that Mr. Candella has had in shepherding his
15 fellows into religion and to his prayer groups that he has
16 had. I think the insincerity of it would be too obvious. I
17 think the sincerity has to be real in order for it to be so
18 persuasive and I think those inmates, were they able to, would
19 be able to convince this Court if they came in here one by one
20 and talked to Your Honor about what Mr. Candella has done,
21 just as Mr. Romero has done in his letter. I think they would
22 be able to say to you it is not possible that a man could
23 change them. We are talking about the hardened criminal. We
24 are talking about the violent people. These people I don't
25 think could be easily so manipulated by someone who sought

1 simply to fool this Court.

2 THE COURT: Do you want to speak to this issue?

3 MS. LESSER: Indeed, we do. Mr. Candella is a fraud
4 in every sense of the word. He is using religion to hide
5 behind and the hope this court will grant some leniency. He
6 is a master manipulator. We saw that on 500 some-odd tapes and
7 with respect to the religious conversion and the timing of
8 that conversion, Your Honor, he claimed at trial to have found
9 God and yet, that didn't stop him from taking the stand and
10 lying repeatedly about the numerous crimes, he lied about his
11 conviction in Italy. When he finally admitted to it he said,
12 yes, well, that was in abstentia, the host of lies, numerous
13 lies when he testified in this courtroom, so that was in the
14 context of a man who had already supposedly found God.

15 Moreover, Your Honor, with respect to the numerous
16 submissions he has filed with this Court he continues to lie.
17 He continues to deny his role and his participation in dozens
18 and dozens of violent crimes and I think that is
19 extraordinarily relevant. A man who has really done the
20 religious conversion that he claims he has would have some
21 remorse. He would be at a point where he would be prepared to
22 accept responsibility for his crimes and he has not done that
23 and he didn't do it before this trial. He didn't do it during
24 the trial. He has not done it during his submission and he is
25 standing here before Your Honor today continuing to deny his

1 involvement of crimes that he has admitted repeatedly on tape
2 as having committed, which he committed with accomplices who
3 testified at this trial.

4 The man you have before you, he is no ordinary
5 criminal. He is not a man who just goes in and commits home
6 invasion. He commits home invasion and while he does it ties
7 up all the family members, he ties up the husband, bangs him
8 on the head with a gun, requiring medical assistance. He
9 walks a child around the house while both parents and
10 grandparents are tied up and asking that child to lead him to
11 the safe where the money is.

12 Moreover, he sexually abused a pregnant woman who was
13 the wife of a Staten Island butcher and also, a drug dealer
14 that he robbed. These crimes are unspeakable. The cafe in
15 Long Island, he laughs on tape repeatedly about how he kicked
16 an elderly man in the groin numerous times because he wouldn't
17 give up his money. He is depraved. He is a menace to
18 society. I think these tapes and I think the evidence at
19 trial demonstrated overwhelmingly he is a one-man crime wave.
20 He is somebody who sat in a cafe in Brooklyn with Angelo Detre
21 and others and said I feel like committing a crime today, why
22 don't we go rob a Mac Donald's and off they went. They
23 weren't able to find a Mac Donald's. The timing was not
24 right., there were too many people around, but this mind is
25 unstoppable. He is not only extraordinarily violent, he is

1 extraordinarily selfish. At every opportunity he puts his
2 interest before those of his family, his friends, his criminal
3 confederates, as illustrated. Your Honor, for example the
4 robbery, the Crossland Savings Bank, that was a score in front
5 of Antonio ^^ Musee. As we point out in our letter that we
6 filed yesterday, he ^^ Antonio Duprey committed that robbery
7 because he didn't want to split the proceeds with Antonio
8 Russo because, as it is characterized it today when confronted
9 with this he denied, denied, denied. This is a man who made a
10 fair amount of money from his criminal conduct and yet, he
11 couldn't share it with his wife and children and they had to
12 go to welfare.

13 Your Honor, why do I point to these examples?
14 Because there are numerous, numerous examples of how this man
15 has put his interests before everybody else's and I suggest to
16 Your Honor, his claim of having undergone a religious
17 conversion is more of the same. It is a convenient tool. It
18 is marvelous -- just a marvelous plan on his part. He is a
19 very good manipulator. This is a sham. He is a fraud,
20 Your Honor, and I submit to you that his behavior -- every
21 submission he has filed with this Court, every time he has
22 denied his involved.

23 In that cafe robbery involving the older man or the
24 other crimes that he has admitted on tape that he continues to
25 deny, refuses to accept responsibility and he continues to lie

1 and that is totally inconsistent with the Christian concepts
2 that he claims to have embraced.

3 MS. LASER: If I may respond. Your Honor, we
4 recognize and accept the conviction to very, very serious
5 crimes here. There is not much I can say with regard to those
6 but he is facing a mandatory sentence, a mandatory minimum
7 sentence of 45 years plus he is at a level 39 with criminal
8 history category of one, according to the probation report.
9 We are talking about an extraordinarily long sentence by any
10 measure for this defendant. What we are simply trying to
11 achieve is that he have, as I said, a window at the end of his
12 life. I recognize that the government's primary interest is
13 punishment, as perhaps it should be, but that is not the focus
14 of this Court. This Court has other interests in sentencing a
15 defendant and I think I think can separate what he has done
16 since his conviction and his offense and term that as
17 extraordinary, and because it is extraordinary recognize it in
18 his sentencing as the 2d. Circuit invites.

19 MS. NAVICKAS: Just briefly with respect to
20 Ms. Laser's position, whether or not this is a genuine
21 conversion because of his ability to give comfort to people in
22 prison, I certainly believe that the Court wouldn't have to
23 look very far to see many examples of people who are extremely
24 manipulative and extremely persuasive. Nevertheless, their
25 intentions are not the God-like intentions as are suggested

1 here, and the Court should take into account that this
2 conversion is not real, to the extent that our comments
3 haven't addressed his conversion in prison.

4 MS. LASER: Let me say simply in terms of the
5 application, that manipulation, Mr. Candella had no idea that
6 this was a basis for a downward departure. As I got to know
7 Mr. Candella better I became -- I ultimately recognized
8 because of my understanding of the sentencing guidelines that
9 this could be a basis for a downward departure, otherwise, I
10 don't think he had any reason to know that this could be a
11 basis. I have not seen this particular religious -- not
12 religious conversion but this basis -- his ability to lead in
13 prison and help others in prison, not strictly his own
14 conversion but that this isn't something that he could have
15 said, oh, if I become a leader I will get a downward
16 departure. I can't really imagine that.

17 THE COURT: I have to be candid. I can imagine him
18 thinking downward departure before the trial started. I mean
19 you need to know what I have been thinking based upon my
20 presiding at trial.

21 MS. LASER: Before a year and half ago I wouldn't have
22 thought of that. I happened to read slip opinions. I
23 understand your opinion generally of this case but
24 nonetheless, I think it is a stretch to believe that this
25 defendant was so psychic and/or understood the nuances of

1 guidelines litigation that he would see. I don't think that
2 is really a possibility.

3 THE COURT: He wouldn't be the first defendant with
4 at least some familiarity.

5 MS. LESSER: If he came to court wearing religious
6 symbols, I submit to Your Honor, that is consistent with he
7 wanted to manipulate the jury.

8 THE COURT: That is an interesting point that you
9 raise. I have read this material and I will listen very
10 carefully to what you are saying. We have a little standing
11 -- I wouldn't call it a joke, because for some people it is
12 very sincere, but we observe something in chambers on
13 sentencing day and that is how many people appear before me
14 with the MDC, MCC rosaries issued. So many about whom there
15 isn't the slightest suggestion of religious conviction
16 suddenly find their way to come through those doors with what
17 appears to be the exact same rosary all the time and I was
18 curious as to whether or not Mr. Candella was going to present
19 today with such an emblem of religion and I guess to strike a
20 note in his favor he didn't. But I did recall at the time of
21 trial there was prayer book and I think his wife had a prayer
22 book.

23 MS. LESSER: And necklace, the rosary beads.

24 THE COURT: I think we have been through this. The
25 fact of the matter is it is all possible. Certainly, the

1 crimes are -- certainly just the evidence is very disturbing
2 and talk about convincing overwhelmingly of his involvement,
3 in a meaningful way in all of these crimes, it is not even
4 necessarily inconsistent with the fact that he has taken a
5 different road. It is not necessarily inconsistent with that
6 possibility that he chooses not to come forward and suddenly
7 professes acceptance of responsibility for all these criminal
8 acts. He has other interests in mind no doubt. Understand,
9 but not necessarily inconsistent.

10 Okay. That having been said, I think there are two,
11 if I am not mistaken in this mountain of papers, guidelines
12 issues that are the exception that are before me.

13 MS. LESSER: The leadership issue.

14 THE COURT: There is a leadership issue and the
15 question of threat. As I understand the latter, it is
16 subjective test, if the victim feared for his life, is that
17 not part of this?

18 MS. LESSER: Yes. With respect to the one -- with
19 respect to one of the robberies, it is a subjective test.
20 Now, we have not had the testimony of that victim.

21 THE COURT: According to the government, they
22 represent through Mr. Hanna, who I see is here in the
23 courtroom, that the victim was interviewed and took the
24 position he, indeed, believed when Mr. Candella appeared with
25 the newspaper.

1 MS. LESSER: That is right, a bag.

2 THE COURT: Threatening. Just picture that he had a
3 gun and he did, indeed, fear for his life.

4 Unless there is a specific challenge for that, that
5 would be sufficient to trigger that assessment the others had
6 to do with the leadership question, and if you want to be
7 heard I will hear you.

8 MS. LASER: Your Honor, I think that frankly that
9 there is -- not having read the transcript and familiarized
10 myself with the documents in this case and many of the tapes,
11 Your Honor's description early on that this was just a bunch
12 of individuals who had gotten together and decided to commit
13 crimes, I think is the best description of what occurred
14 here. There's simply nothing that indicated even in the trial
15 testimony of both Detre and Mr. Centore that indicated that
16 Mr. Candella was their boss. All of them contributed to this
17 criminal endeavor in their own way. Even when Detre allocuted
18 he described himself, as he himself described them, as just a
19 bunch of guys out to make money. Even in his allocution he
20 did not say Candella got us to do this and we were under Mr.
21 Candella's control. When the government replied to our papers
22 what the government in their letter described was an active
23 participant but an active participant does not qualify for the
24 extra four points for a leadership role.

25 It was clear from the testimony that everyone in the

1 group suggested various scores that should occur, various
2 robberies or targets for robberies. This was across the
3 board. There is no evidence that Mr. Candella recruited
4 anyone for this group.

5 THE COURT: I have to stop you there because that is
6 just not right. There is, depending upon which robbery.

7 MS. LASER: Yes, I mean of course, he might say, oh,
8 let's get Centore and somebody else to come with us but in
9 terms of the group, the group was a group that basically got
10 together through suggestions of other people. Taglianetti
11 introduced a number of these people to Detre to Persichetti,
12 Minneni, and Centore. It wasn't Mr. Candella who brought
13 these individuals into the group. What it ended up being
14 really, as Ms. Lesser described as in the Mac Donald's
15 incident where they were sitting around, said let's do this
16 and one of them said let's do that, but that makes that person
17 a participant not a leader in the sense that the guidelines
18 contemplated when they allowed for a fully four extra points
19 for leadership.

20 Mr. Candella received no greater slice of the
21 proceeds than anybody else. Perhaps on one incident over
22 another he got a little bit more or he got -- manipulated it
23 -- to use perhaps the government's word -- to get more but
24 it wasn't because he had ultimate control over everybody where
25 he was a leader in the sense the guidelines contemplated that

1 would.

2 THE COURT: There is evidence in the case that he in
3 some instances decided who got what.

4 MS. LASER: Perhaps in some instances, but in other
5 instances he did not make that decision. Our point is in our
6 brief that this was going on for a long time. There were
7 various incidents. It was a very fluid set of circumstances
8 where different people would make different suggestions.
9 Different people would have control in a loose sense of that,
10 particular incidents, but Mr. Candella was not the
11 over-arching leader of this criminal enterprise, and I think
12 that is what is being contemplated when you are adding this
13 amount of time to this individual's sentence.

14 In their letter I recall a snippet of a quote where
15 Detre said with regard to where they were having sort of an
16 argument about what to do about one incident and Detre says,
17 well, you are the boss. You know tape 300 July 29th, 1993
18 Candella says to Detre you are the boss, you are the boss and
19 Detre replies, yeah, I am the boss. I think that best
20 demonstrates how it went back and forth and how they would
21 deal with each other but they ultimately dealt with each other
22 as equals. They did not deal with each other in a way in
23 which Centore and Detre listened to Candella and were beholden
24 to him.

25 Detre and Centore were doing as were Taglianetti and

1 Perscehntti, before Candella came on board, during the time
2 Candella came on board with them, they were doing crimes on
3 their own. So that also doesn't demonstrate a leadership role
4 on the part of Mr. Candella and I think that active, even an
5 essential participant does not qualify as a leader.

6 THE COURT: Well, on that point we can agree. Yes,
7 this is somewhat of a fluid situation, no question about it.
8 It wasn't a lot structured -- one might say even highly
9 structured. It was not your typical hierarchy but there was a
10 hierarchy. I can't help but mention this because the record
11 should reflect it and I will grant you now what I observed the
12 defense attempt to do in arguing for ineffective assistance of
13 counsel relative to the defenses of entrapment and coercion
14 but that is what I call the Alexander Hague tape which is a
15 reference to page seven of the government's letter,
16 conversation of April 12, 1993.

17 I am in charge so I do whatever the fuck I want. The
18 context of that was a gun deal. Mr. Candella was apparently
19 deciding whether or not -- if I recall correctly -- not
20 spelled out in the letter -- whether Detre was going to be
21 able to keep guns unless on a consignment basis or what but it
22 was more importantly than what was said because I grant you it
23 is a snippet, if you listen to that conversation. This was
24 played at trial, wasn't it?

25 MS. LESSER: I believe it was. Actually, it was. It

1 was played at this trial.

2 THE COURT: That is when it came up with the
3 Alexander Hague reference.

4 MS. LESSER: Yes, it was.

5 THE COURT: It was a pretty imposing few moments on
6 that tape but I think the point really is that everyone was --
7 you are quite right -- everyone was suggesting possible
8 scores, maybe more so Mr. Candella than others, but every one
9 was. Everyone was looking for a quick easy way to make money
10 but when they sent him on a score, whether it was the pizza
11 man out in Staten Island, the push-in robbery I think on Long
12 Island, the Globe, the cigarette robberies, when he settled on
13 a score and came time to decide who is going to be involved,
14 what the plan of attack was, what role each individual had,
15 whether Mr. Candella himself would be involved in the actual
16 assault, that usually was dependent upon whether he knew the
17 victim, and once the crime was committed where everybody would
18 retreat to, and then take their cut is generally determined by
19 Mr. Candella. Boy, that sounds like leadership to me. Sounds
20 like the man in charge to me.

21 Do you want to add anything to this?

22 MS. LESSER: Again, we would rely on our May 3rd, 1999
23 letter where we have tried to set a number of examples to
24 illustrate his leadership role in this organization.

25 But I would just say, Your Honor, specifically with

1 respect to the Globe robberies, the practice was actually even
2 prior to that, the introduction by Lorenzo Menino, Candella to
3 Detre and Taglianetti was for the express purpose of Detre and
4 Taglianetti joining this robbery crew. It was his crew, and
5 that was the purpose for which they were introduced. Because
6 Detre and Taglianetti had become unhappy with Persichetti and
7 the scores had not netted money. They really became
8 dissatisfied with him so that was when Menini introduced him
9 to Candella to this -- a lot going on, lot of scores and was
10 plugged into these Globe truck hijackings.

11 And again, very briefly, with respect to the manner
12 in which they were organized and took place, the pattern was
13 always the same, which was Candella would alert the others
14 when he knew of a score. They would often assemble at his
15 house where the other members that were going to go out in a
16 particular robbery would arm themselves with weapons that
17 Candella kept at his house -- mask, gloves, etcetera and then
18 after the robbery was committed, the proceeds from that
19 robbery would be delivered to his basement. He would
20 distribute the monies from the stolen cigarettes to those who
21 had participated. So it really does fit within the
22 definition. We submit, Your Honor, that the guidelines would
23 require for the enhancement based on leadership and again, I
24 am not going to reiterate what is in here -- it is all in here
25 but I would make one brief additional point and that is,

1 Ms. Laser says that Detre refers to him as a boss but it
2 wasn't just Detre, the accomplice cooperating witness, it was
3 all the others, such as Angie Piscatello and again we quote
4 from the tape next to last paragraph, page seven where it is
5 said to Candella: You are the boss, you do what you want to
6 do. So that was the perception of others as well. It was
7 consistent with his conduct and role and it was the perception
8 of his role as other criminal confederates.

9 MS. LASER: I say to my husband you are the boss but
10 that really --

11 THE COURT: You don't mean it.

12 MS. LASER: Exactly. I think that we have to
13 recognize that here with regard to these hundreds and hundreds
14 of tapes of these individuals talking, I think we have to look
15 at the nature of these numerous crimes and how they float --
16 these various individuals float in and out. If Candella was
17 the leader there wouldn't be crimes in which he was not
18 participating or that he was not leading and that doesn't
19 happen when you are involved in a four-point leadership role.

20 I keep bringing you back to that but we are talking
21 about a large aggravation with a sentence. Perhaps not
22 proportionality but nonetheless, a significant amount of years
23 at this guideline level but if I am losing here, then I want
24 to bring you back to the fact that, if anything, he should not
25 get more than supervisory role of additional two points.

1 When you are talking about people who will commit
2 crimes on their own without their supposed supervisor or
3 leader you were talking about the people who are very
4 independent and you are talking about where others
5 consistently recommend sites and share in the proceeds fairly
6 equally. The fact they all congregate at his house is really
7 irrelevant. I think we have to look at the strength of these
8 other participants and how much input they had in bringing
9 others in, as Taglianetti did, and adding to what was going
10 on. Candella was not a one-man show and he did not use his
11 people as his subordinates. They were his cohorts.

12 THE COURT: All right. Well, you know, as strong as
13 this case was and as odious as the crimes were, given the
14 strategies we are in now, I am not in a hurry to increase the
15 man's adjusted offense level. I do, on the other hand, have
16 to take the evidence as I understand it. Anything else that
17 you want to discuss before I give Mr. Candella an opportunity
18 to be heard?

19 MS. LASER: No, Your Honor.

20 I just want to make one quick response to something
21 Ms. Laser said and that was in the context of a legal
22 argument. She said the government wants to see him punished
23 and I will just add to that Your Honor, yes, we would like to
24 see him punished for his crimes. We would like to see him be
25 made to accept responsibility by serving a lengthy sentence.

1 We also want to see the public protected. There is nothing
2 suggesting that he wouldn't go back on his crime spree when he
3 gets out, except possibly very, very old age. That is what we
4 are talking about here. The window, as I am seeking as the
5 only window I can see, is, one, he will be so incapacitated by
6 old age that he will be powerless with regard to the
7 government's fears. So I don't think it is even a question
8 here.

9 THE COURT: Mr. Candella, is there anything you would
10 like to say, sir?

11 THE DEFENDANT: No, thank you.

12 THE COURT: Anybody else?

13 MS. LESSER: No, Your Honor.

14 THE COURT: Well, I think in your extended discussion
15 we probably said all we need to say about the gravity of the
16 crimes and the significance of Mr. Candella's participation
17 and role in them, which I believe is accurately characterized
18 in the presentence report based on my recollection of the
19 evidence and my review of the evidence more recently.

20 It was an overwhelming case. I do hope that there is
21 something to the observation of these good people who have
22 written to the Court on his behalf. I earnestly hope that. I
23 don't bring special powers to this exercise. I can't say for
24 sure. Ms. Laser's made some telling points about the
25 unlikelihood that someone could prolong this level of

1 intensity and apparently reach so many otherwise criminally
2 inclined people. I hope that's true and I hope it's in
3 earnest because it will give Mr. Candella something to devote
4 himself to, a genuine calling during his years of confinement.

5 The jury having found him guilty on a number of
6 counts, excuse me -- for just a second. I want to make sure
7 we don't louse this up.

8 I believe the range as presently recited is 262 to
9 327 months.

10 MS. LESSER: That is correct.

11 THE COURT: Subject to the maximum penalties that
12 apply to certain counts well below that and then with respect
13 to Count Seven, I am obligated to impose a five-year term
14 consecutive to the sentence imposed on Count Six, correct?

15 MS. LESSER: Yes.

16 THE COURT: And then beyond that with respect to
17 Counts 11 and 19 I am obligated to impose under 924(c) a
18 20-year term of imprisonment on each count to run concurrently
19 to each other but consecutive to the count of the sentence
20 imposed on Counts Ten and 15.

21 MS. LESSER: No, I believe they are run consecutively
22 to each other. I believe that is correct, Your Honor and I
23 believe the third addendum.

24 THE COURT: The third addendum?

25 MS. LESSER: It really doesn't address it. I believe

1 each has to be consecutive to the other.

2 THE COURT: I remember first confronting this
3 statute, and being frankly overwhelmed by it. You are
4 suggesting that I have to impose -- is it 20 or 25?

5 MS. LESSER: The first one is five years consecutive
6 to the second, which would be 20 and any conviction thereafter
7 on the 24-C carries a 20-year penalty. It is actually 45.

8 THE COURT: I am confused. Point me to the specific
9 section. I think I have it in front of me.

10 MS. LESSER: I don't have it in front of me.

11 MS. LASER: You can see it in page two.

12 MS. LESSER: Your Honor, we are getting a code. I
13 forgot my code.

14 THE COURT: Here, do you need it?

15 MS. LASER: I would share it with her.

16 (Mr. Lesser and Ms. Laser perusing.)

17 THE COURT: We have to be careful. We have not had
18 amendments that post date the activity.

19 MS. LESSER: That is exactly what we are thinking
20 about.

21 MS. LESSER: These two.

22 THE COURT: Some of them, clearly.

23 MS. LESSER: I don't know if we should get an earlier
24 code.

25 THE COURT: We can do that.

1 MS. LASER: Or it is just obvious from the amendments
2 as they are written here.

3 MS. LASER: Because under subsection C C 1 C it
4 indicates the 25 years.

5 MS. LESSER: I think that is adding the five, plus 250
6 for the second one.

7 THE COURT: No, that is what I first thought, but if
8 you go on and read the concurrent provision, that clearly it
9 has been amended.

10 MS. LESSER: I think this changed after these were, so
11 we would have to go with the earlier. I think the older code
12 is actually more clear, Your Honor and I know the way you
13 know, I know this from having had cases with the subsequent or
14 multiple 924(c) counts. The first is five. Every one after
15 that is 20 years and they run consecutive to each other,
16 however, concurrent to the other counts in the indictment. In
17 other words, it is five plus 20, plus 20, and all these
18 subsequent counts are consecutive to each other. However, the
19 924(c) counts all, whatever that total is that it adds up to,
20 runs concurrent with whatever. That is right.

21 THE COURT: That is not my recollection. I think we
22 better take the time. I have one other question as long as we
23 are doing this. The total sentence, the lower end of the
24 guideline, bottom of the guideline is in any statutory maximum
25 being here for the most serious offense is 240 months. Low

1 end of the guidelines is 262 months.

2 I could impose a sentence of 262 months because I
3 could make the sentence, to the extent necessary, to achieve
4 low end of the guidelines range before consecutive, but in a
5 case where I have to add on top of this the gun count and then
6 in a 20-year gun count and then they, Heaven, forbid, get
7 another consecutive count I would certainly not be inclined to
8 make any of the underlying counts consecutive. I just want to
9 make sure I am not missing anything there. Statutory maximum
10 five-year counts, we have ten-year counts and we have 20-year
11 counts. The statutory maximum most serious offense is 240
12 months. That is below the guidelines range. Given the need
13 to make consecutive these gun counts I would not consider
14 making the initial sentences on the non-gun counts in any way
15 consecutive.

16 MS. LASER: Is that your implicit ruling on the
17 leadership?

18 THE COURT: No, I thought I made that before. I
19 think the presentence report has correctly characterized.

20 MS. LESSER: Could we have a brief recess?

21 THE COURT: I think we will have to. I have another
22 matter on the calender. We will take the remaining calendar.

23 (Pause in the proceeding.)

24 THE COURT: All right. Have you made progress and is
25 there an agreement, at least as to what the statute requires?

1 MS. LASER: We realized that the statute currently,
2 when you look at the 1999 code, is different than what the law
3 is for this case. It was my understanding and I think
4 Ms. Lesser called the supervisor at the probation department
5 that the three counts of 924(c) should go five, 20 and 20
6 consecutively. That, in fact, was my understanding of the
7 what the law is. However, because the library downstairs
8 didn't have a 1993 or 1994 code, I had my office read it to me
9 and I am wondering if the law not does not permit the second
10 and 924(c)s to run concurrently with each other, so that it
11 would be so that you could in your discretion have the 20s be
12 -- 20, 20 be concurrently with each other, so it isn't
13 consecutive 20 as opposed to a consecutive 45. As I read the
14 statute I understand it is permissible. However, Ms. Lesser
15 disagrees.

16 MS. LESSER: The statute has never changed,
17 apparently.

18 THE COURT: You may very well have it inside.

19 MS. LASER: This one doesn't help us.

20 THE COURT: This will tell us whether or not the
21 specific provision, which is the point Ms. Lesser is about to
22 make, has been amended.

23 MS. LESSER: The law has not changed with respect how
24 you treat subsequent 924(c) counts, even though the drafting
25 is different.

1 THE COURT: You are referring to 924(c) subdivision D
2 ii in terms of imprisonment imposed on a person under this
3 subsection shall run current with any other term of
4 imprisonment imposed on the person, including any term of
5 imprisonment imposed for violation of drug trafficking, crime
6 during which a firearm was used, carried or possessed.

7 MS. LASER: I am wondering if that could be
8 interpreted to read that into term of imprisonment imposed
9 under this subsection and their subsection meaning all three
10 of the 924(c), so that all three of the 924(c)s could be
11 running concurrent. That is actually that phrase under this
12 subsection.

13 THE COURT: I understand your point. I urge you to
14 sit upon the panel in the Court of Appeals and perhaps they
15 will prevail but that is not my reading of it.

16 MS. LESSER: Additionally, it does speak to the
17 statutory issue, precisely this issue, U.S. v. Lindsay (ph)
18 and how you handle subsequent 924(c) counts that are connected
19 to the separate crimes of violence and separate uses of the
20 gun. It kind of gets back to the --

21 THE COURT: I did review this in connection with
22 another case that you have some familiarity with. I did,
23 indeed, have occasion to read that case.

24 MS. LASER: I think what I am saying is in your
25 discretion you could do it. In your discretion you need not

1 based on the language but in your discretion you could.

2 THE COURT: I hope you can wage war and get a little
3 discussion, but the way I read this rather broad and inclusive
4 language I have no discretion.

5 MS. LESSER: I was going to address the issue of
6 guidelines. Again, what we have learned from Tony Garroppola
7 and we looked at the guidelines, it does seem to support what
8 he said, 5G1.2d stands for the proposition that you aggregate
9 statutory amounts and again, Your Honor can see the language.
10 It is when you have a guidelines range like ours at 262, since
11 we have multiple robbery convictions.

12 THE COURT: I thought that is what I said. That is
13 clear.

14 MS. LESSER: Okay. I am sorry.

15 We are talking statutory and guidelines. I guess I
16 misheard what you said.

17 THE COURT: Okay. 5G1.2D.

18 MS. LASER: Essentially, as I remember, it was a
19 discretion decision.

20 MS. NAVICKAS: It says here shall run.

21 THE COURT: It does. Well, they have covered all the
22 basis.

23 Well, lest any of my reservations about the statutory
24 penalties and the application of the guidelines be
25 misconstrued, obviously, I made it clear, Mr. Candella should

1 be punished severely. I have expressed my views that if his
2 conversion is legitimate, I truly hope that he will stand in
3 the position to help others. Whether the crimes for which he
4 stands convicted require the extended period of incarceration
5 that I am obligated to impose is a subject about which people
6 reasonable people might differ.

7 The crimes were horrible, they were violent, but
8 there, nevertheless, remains a question as to whether or not
9 this punishment is absolutely required.

10 I do think finally putting aside this question of
11 post conviction rehabilitation about, incapacity is a
12 legitimate basis for sentence and perhaps the most compelling
13 in this case.

14 With respect to those counts subject to the statutory
15 maximum penalties, of course, I impose concurrent sentences on
16 Counts One, Four, Six, Eight, Nine, Ten, 12, 15, 23, it is 23
17 through 34, I want to make sure.

18 MS. LASER: Twenty-three, 24, it is in the first page
19 of the P.S.R.

20 THE COURT: Thanks.

21 Twenty-three, 24, 24, 25 -- 24, 25, 26 and 27 through
22 33 -- 27 through 33 and 34 an aggregate sentence in the amount
23 of 262 months, five years supervised release, standard
24 concerns of supervised release shall apply. With respect to
25 Count Seven, five-year term of imprisonment, consecutively

1 through with respect to Count 11, 20-year term of imprisonment
 2 consecutive to the sentence imposed on Count Seven and
 3 consecutive to the aggregate sentence imposed on previous
 4 counts, and with respect to the Count 19, 20-year sentence to
 5 run consecutively to the sentence imposed on Count 11, and
 6 consecutive to the sentence imposed on Seven, and consecutive
 7 to the sentences imposed aggregately on the prior counts.

8 There will be no fine in light of the personal
 9 circumstances of the family and there are special assessments
 10 to each of these counts in what amount -- in the amount of \$50
 11 each, totalling I believe \$1,150. I have already advised the
 12 defendant of his right to appeal.

13 Ms. Laser, I assume you will file the notice of
 14 appeal on behalf of Mr. Candella.

15 Is there anything else?

16 MS. LASER: Yes.

17 THE COURT: Is there anything else?

18 MS. LESSER: No, Your Honor.

19 THE COURT: Well. Hard to say good day.

20 Good luck. Make the best of a bad situation.
 21 Thank you, for your presence in this proceeding.

22 (Proceedings concluded as above set forth)

23 oOo

Marsha Diamond
 24 OFFICIAL COURT REPORTER
 25 U.S. DISTRICT COURT